

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6448**

**BILL NUMBER:** HB 1101

**DATE PREPARED:** Feb 27, 2002

**BILL AMENDED:** Feb 26, 2002

**SUBJECT:** Various Election Law Changes.

**FISCAL ANALYST:** Chris Baker

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**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill makes changes to election law concerning the following:

- (1) The formulation by the Election Commission of a statement of a "voter's bill of rights".
- (2) The date that electronic filing of certain campaign finance reports is considered to have occurred.
- (3) The total number of signatures that a candidate for President of the United States, United States Senator, or Governor is required to obtain to qualify for placement on the ballot.
- (4) The requirement for an individual who registers to vote to provide the last four digits of the individual's Social Security number.
- (5) The organization and disbanding of political committees.
- (6) An erroneous reference in a statute relating to absentee voting.
- (7) Deadlines for taking certain actions relating to filling candidate vacancies.
- (8) Determination of the political affiliation of an appointee to a local board.
- (9) Authorizing the Election Commission to adopt rules to update standards for voting systems.
- (10) Establishing a procedure for a member of a county election board to file a protest with the state Election Commission when an election ballot does not comply with the requirements of IC 3-11-2 or is otherwise not in the form required by law.

- (11) The requirement that nominees be listed on a general election ballot in type with uniform capital letters and with uniform space between each name.
- (12) Authorizing a county election board to establish the number of voters a precinct may contain that permits the precinct to have its polls located at the same location as another precinct.
- (13) Authorizing the town of Danville to adopt an ordinance changing the date of its municipal elections to coincide with a general election.
- (14) Authorizing a county to appeal to the Department of Local Government Finance for permission to exceed for up to 3 years the ad valorem property tax levy limits to pay for a new voting system or the expansion or upgrade of an existing voting system.
- (15) The establishment of a provisional ballot.
- (16) Permitting a county election board to eliminate certain precinct election offices and to allow individuals between 16 and 18 to serve as poll clerks and election sheriffs under certain circumstances.
- (17) Making certain changes concerning absentee ballots, including the submission of absentee votes by fax transmission by certain voters under certain circumstances.
- (18) Requiring the Attorney General to receive and investigate complaints concerning violations of Indiana election laws.
- (19) Expanding the definition of absent uniformed services voter to include a member of the Indiana National Guard deployed outside of Indiana.
- (20) Allowing late registration of absent uniformed services voters under certain circumstances.
- (21) Requiring a county election board to send confirmation that an absentee ballot was received to all absent uniformed services voters.
- (22) The freezing of precinct boundaries from before the federal decennial census until after the adoption of redistricting plans for: (A) United States Representatives; and (B) senators and representatives in the general assembly.
- (23) The requirement that, after November 8, 2011, any local governmental body or office required periodically to establish or revise its districts use the precinct boundaries used in preparing the redistricting plans for: (A) United States Representatives; and (B) senators and representatives in the general assembly.
- (24) Allowing the Office of Census Data, whenever a precinct boundary splits a census block, to move precinct boundaries to the next whole census block for the purpose of tabulation before a federal decennial census.
- (25) Allowing precinct boundaries to cross a city boundary in certain circumstances.
- (26) Repealing superceded statutes relating to: (A) registration of absent uniformed services voters and overseas voters; and (B) the counting of absentee ballots at a central location.

(27) Repealing a provision establishing a board of registration in each county having a population of more than 125,000.

**Effective Date:** Upon passage; July 1, 2002; January 1, 2003.

**Explanation of State Expenditures:** (Revised) (1) The bill requires the Election Commission to prescribe the Voter's Bill of Rights. The Commission may require copies of the Voter's Bill of Rights to be distributed with voter registration materials or other materials given to voters. It is estimated that the printing and distribution costs of the Voter's Bill of Rights may not be absorbable in the FY 2003 budget year. The Commission may require additional funds in future budget years for this provision. Posting of the Voter's Bill of Rights on the web site of the Secretary of State or other state web sites is expected to generate no additional cost to the state.

The Secretary of State would also be required to request the Indiana news media to include a copy of the Voter's Bill of Rights in a public service announcement (PSA). Production of a minimal PSA is estimated in a range of \$500 to \$600. A minimal PSA could include still frames with a background narrator or voice over. An upper end PSA requiring camera time with an actor or actress, animated logos, lighting, and editing would require additional expenditures. It is estimated that production of an upper end PSA could require expenditures ranging from \$2,000 to \$20,000.

(2) This provision could change the timing as to when a candidate files a campaign finance report. This provision could save Indiana Election Division (IED) staff resources for other administrative uses. Under current law, candidates that file electronically do so by submission of a disk containing the candidate's report. The current process requires IED staff to physically print a hard copy of and time stamp each report.

(3) The IED would require minor expenditures in order to update petition forms.

(4) Currently, state form 50504 has a space and check box provided to indicate and report the last four digits of the registering voter's social security number. This provision should have no fiscal impact.

(5) Under current law the Indiana Election Division (IED) or a county election board (CEB) may begin a proceeding with the Indiana Election Commission (IEC) to disband a candidate committee. The bill changes the provision to include the following conditions for disbandment: the candidate committee has not filed any report of expenditures during the previous three calendar years; the candidate committee last reported cash on hand in an amount that does not exceed \$1,000.

Current law does not allow for disbandment if the committee owes debts to any person other than a civil penalty assessed by the IEC or CEB, or if the candidate was also the committee's chairman/treasurer. When a proceeding occurs, the IED or CEB is required to provide notice via certified mail to the chairman and treasurer of the committee named in the proceeding. Rates for certified mail are as follows: \$2.10 for certification and \$0.34 for first class postage. If mail weighs more than an ounce, \$0.23 is charged per each additional ounce.

Historically, the IEC has disbanded four to five candidate committees per year. On average, 20 to 40 candidate committees file pre-primary and pre-general election campaign finance reports late, and between 50 to 70 candidate committees file late annual campaign finance reports. The IED can assess a civil penalty for failure to file. The maximum penalty that may be assessed is \$1,000. In FY 2001, \$15,104 in civil penalties were assessed by the IED. Under the bill, the IED would be able to disband candidate committees

that IED no longer has communication with.

Under the bill, the IEC or the CEB may waive outstanding civil penalties imposed previously by the IEC or CEB. Additionally, if the dissolution of a candidate committee goes forward, any surplus contributions must be distributed to either a regular party committee(s), another candidate committee(s), to the contributors pro rata, a federal income tax exempt organization, or the IEC.

The IED must arrange for publication in the Indiana Register any orders to administratively disband a committee. A CEB must publish a notice to the same effect. Under P.L. 64-1995, basic publishing charges are by the line with squares of 250 ems. Before January 1, 1996, the rate was \$3.30 per square for the first insertion in a newspaper or qualified publication plus \$1.65 per square for each additional insertion in a newspaper or qualified publication. After December 31, 1995, and before December 31, 2005, a newspaper or qualified publication may, effective January 1, increase the basic charges by 5% more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper or qualified publication for comparable use of the same amount of space for other purposes. An additional charge of 50% is allowed for the publication of all public notice advertising containing rule or tabular work.

The impact of this provision is indeterminable and would depend on the increase or reduction of the amount of proceedings filed as a result of the bill.

**(6) - (8)** These provisions will have no fiscal impact.

**(9)** This provision allows the Election Commission to adopt rules concerning more recent standards for voting equipment. The provision, if the Election Commission choose to meet to adopt new rules should have a minimal impact to state expenditures. The Commission could incorporate hearings on new rules during the course of a regularly scheduled business meeting.

**(10)** The Indiana Election Commission would be required to investigate petitions by members of the county election board if the required specifications as provided in the bill are not met with respect to the printing of ballots. The amount of potential expenditures involved with this provision would depend on the extensiveness of any investigations and hearings that could result.

Based on past experience of the Election Commission, any hearings required for possible violations of election law have been treated similarly to standard meetings of the Commission with respect to expenditures. Commission members receive standard per diem and may incur minimal costs related to the transcriptions of Commission meetings.

For expenditures related to investigations, it has been the experience of the Election Commission for the parties involved in a deposition to cover the costs, including payment of a court reporter to record and any witness fees accrued, such as mileage for travel. With more complex investigations, site visits could be required which would incur further expenditures related to travel and possible overnight accommodations. The Election Commission, to date, has not experienced an investigation which has required significant expenditures.

**(11)** Additional expenditure would be required if more paper and/or printing of ballots is required to carry out this provision.

(14) If the Department of Local Government Finance were to approve additional excess levy appeals recommended by the local government tax control board for voting equipment purchase or upgrade, the State would incur increased property tax replacement credit (PTRC) expenses of 20% of the total levy increase. PTRC is paid from the Property Tax Replacement Fund, which is annually supplemented by the State General Fund. Any additional PTRC expenditures would ultimately come from the General Fund. The impact would depend on the approval or disapproval of tax unit appeals by the Department.

(15) This section of the bill would require the Election Division to print and ship provisional ballots for state offices and the President of the United States (in Presidential election years) to county circuit court clerks or the director of the board of elections in registrations (for certain counties). The Election Division is already required to print ballots for certain general elections under current law. There will be some additional expenditures to the Election Division to provide provisional ballots to counties. As more counties adopt electronic voting systems that do not require paper ballots, the impact of this provision would subside. Currently, unused funding for printing of ballots by the Division is reverted to the state General Fund. The Election Division printed approximately 250,000 ballots at \$0.25 per ballot for the 2000 general election (250,000 X \$0.25 = \$62,500). The Election Division would be required to send the provisional ballots by certified mail. Rates for certified mail are as follows: \$2.10 for certification and \$0.34 for first class postage. If mail weighs more than an ounce, \$0.23 is charged per each additional ounce.

As of January 2, 2002, the Election Division had 13 full-time positions, one vacant (full-time), and one intermittent position.

*Penalty Provision:* Under the bill, a provisional ballot counter that knowingly causes a vote to be incorrectly taken down for a candidate or public question or makes a false statement, certificate, or return of any sort for that vote commits a Class D felony. Additionally, if a provisional ballot counter knowingly opens or marks a ballot (unless allowable by law) or attempts to know the vote of the voter before a ballot is put in a ballot box, or cast on a voting machine, electronic voting system, or ballot card voting system, the provisional ballot counter commits a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

(18) The bill requires the Attorney General to have a toll-free telephone number to receive complaints from individuals regarding violations of election law. The Attorney General (AG) currently has several toll-free numbers in use for contacting the AG on various topics. Based on advertisements providing toll-free service, prices can range from \$0.04 per minute to \$0.098 per minute for use of a toll-free number. In addition some firms may charge a one-time start-up fee of \$10 to \$95. A dollar-per-month service charge may be assessed, depending on the retailer. The AG estimates the cost to implement the toll-free number and maintain staff to administrate the toll-free number is between \$5,000 and \$20,000.

The AG would also be required to investigate any complaints on election law received. Depending on the number of complaints filed, it is believed the AG would be able to absorb the administrative costs of this proposal. As of January 2, 2001, the AG had 275 employed positions. Of these positions, 246 were full-time,

5 part-time, 7 on leave, 14 intermittent, and 3 were temporary.

The AG would be given additional investigative powers with respect to election fraud. Under the bill, the Election Commission would be required to reimburse in full the investigative costs (including the cost of any special Deputy Attorney General and payroll expenses) incurred by the AG.

The provision would have an indeterminate fiscal impact to the Election Commission. The FY 2002 General Fund appropriation to the Election Division is \$772,806 for operating expenses and \$194,930 for the National Voter Registration Program (NVRP). The FY 2003 General Fund appropriation is \$798,806 for operating expenses and \$354,930 for NVRP.

(24) The Office of Census Data would experience minimal expenditure to carry out this provision. The provision would not first effect the Office until August of 2009. Expenditure involved could include postage, printing of notices to counties, and maps produced. It may be possible that all counties could receive this information electronically (via compact disc) in seven years. Depending on the cost of postage and the price of blank compact discs in 2009, the expenditure should be minimal. Current first class postage is \$0.34. Current prices of blank compact discs can range from \$0.25 to \$11 depending on their construction and capabilities.

**Explanation of State Revenues:** (Revised) (5) As described in *Explanation of State Expenditures*, if more civil penalties are waived by the IED as a result of the bill, fewer fees resulting from civil penalties would be collected.

(15) *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

(18) If more cases are prosecuted by county prosecutors as the result of additional investigations conducted by the Attorney General's office, revenue collected from court fees may increase as described under (15).

**Explanation of Local Expenditures:** (Revised) (1) - (4) No fiscal impact.

(5) See *Explanation of State Expenditures*.

(6) - (8) Little to no fiscal impact should result from these provisions.

(11) Additional expenditure would be required if more paper and/or printing of ballots is required to carry out this provision.

(12) The impact of this provision would depend on local action. If more precincts were allowed to combine, by ordinance, several expenditure savings could occur. Fewer precinct election officers would be required, which would reduce the amount of per diem paid by the county for such officers. Combining precincts could allow better efficiency with respect to voting equipment, as a county may not require as many voting machines, which could reduce the cost for new purchases of machines and/or the printing of ballots. A precinct has the following election officers:

Type of Officer	Number
Inspector	1
Judge	2
Poll Clerk	2
Sheriff	2
Asst. Poll Clerk	2 (Optional)

As of the last general election in 2000, there were 5,530 official precincts in Indiana.

**(13)** Hendricks County could experience a savings from not holding municipal elections in Danville for town offices. Under current law, when a municipal election is held in a town that has a population below 3,500 and is not located entirely or partially within the county, the town is required to provide for payment of precinct election officers. Otherwise, the cost for precinct election officers for a municipal election is the responsibility of the county executive. Given that the Town of Danville population exceeds 3,500, expenditures for election officers along with ballot printing that the Hendricks County Election Board is responsible for would be experienced by the County only in general election years. The impact would depend on the Danville Town Council adoption of an ordinance allowing the Town's municipal elections to occur during general election years.

**(15)** The circuit court clerk will be required to estimate the number of provisional ballots required to vote in the county. Each provisional ballot must be signed by the circuit court clerk or their designate. The impact is unknown and will vary by county.

The bill would also allow the county election board to contract with a state university or college to dispose of the ballots for the purpose of election research.

*Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**(16)** This provision could provide a savings to counties if precinct sheriffs and/or poll clerks are eliminated. An ordinance must be adopted by the county election board for all or certain specified precincts in the county to eliminate sheriffs and poll clerks. The specific impact of this provision is indeterminable and depends on local action.

*Background:* Under current law, precinct election officers are appointed by the county election board, except in Lake and Tippecanoe County where the officers are appointed by a combination of an election board and registration board. For all elections except certain municipal elections, the county executive fixes a per diem allowance to the following precinct election officers displayed in the table under **(12)** above.

The county executive is also allowed under current law to set a meal allowance (if an ordinance allowing a meal allowance has been adopted by the county) for the above listed precinct election officers on election day. In addition, an inspector can receive additional compensation for the duties of acquisition and return of election supplies to the circuit court clerk's office. For municipal elections in towns with a population of

less than 3,500 with the municipality located outside of Marion County, the town fiscal body fixes compensation. As of the 2000 general election, 5,530 precincts officially existed in Indiana.

**(17), (19), (20), & (21)** This provision would save certain mailing costs to circuit court clerks and county election boards by faxing either general election or special election absentee ballots. With respect to absent uniformed services voters or overseas voters, sending a fax of an absentee ballot could significantly reduce the transaction cost of the ballot for election boards.

Absentee ballot forms may need to be revised in order to reflect these changes and to provide proof of residency and qualification to vote.

Precinct election officers could have minimal increase in duties to compare signatures and process voter certification and affidavits at the polls. Additionally, county election boards may require more administrative time to certify transmitted affidavit signatures.

This provision would require additional administrative time to the circuit court clerk's responsibilities. Additional expenditures may be necessary to cover the cost of mailing an affidavit to the board of registration.

The county election board would be required to send confirmation that an absentee uniformed services ballot has been received either by fax or electronic mail. However, if neither a fax number or electronic mail address is provided, the board would have to send confirmation by United States mail.

**(27)** Counties that meet the above population requirements would have the option of eliminating their boards of voter registration. If the resources were not reassigned, unused resources could be eliminated.

**Explanation of Local Revenues:** (Revised) **(14)** The precise impact of this provision would depend on local and state action. Under the bill, the local government tax control board may recommend that a county exceed the maximum levy if the board finds the additional revenue would be used to pay for the purchase/upgrade of voting equipment. Recommendations by the board would have to be approved by the Department of Local Government Finance. *The bill provides a county granted permission to increase their maximum levy for the purpose to purchase or upgrade voting equipment may not impose the increased levy for more than three calendar years.*

**(15) Penalty Provision:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**(18)** If more cases are presented to county prosecutors by the Attorney General's office, revenue collected from court fees may increase as listed under **(15)**.

**State Agencies Affected:** Indiana Election Division, Indiana Election Commission; Department of Local Government Finance.



**Local Agencies Affected:** County Election Board; Circuit Court Clerk; Board of Voter Registration, Town of Danville.

**Information Sources:** Spencer Valentine, Co-Director & Kristi Robertson, Co-Counsel, Indiana Election Division, (317) 232-3939; Jamie Berns, Production Manager, WXIN 59, (317) 632-5900; *HRM Detail Staffing Report Position and Employee Totals, 1/02/2002*; U.S. Postal Service; Melissa Henson, Department of Local Government Finance, (317) 232-3785; [www.officemax.com](http://www.officemax.com); [www.bswebengine.com/officeworld1755/](http://www.bswebengine.com/officeworld1755/).